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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/708,597 | 03/12/2004 | Brian Barnes | 60655.6200 | 2596 |

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EXAMINER

LE, UYEN CHAU N

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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2876

DATE MAILED: 10/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 10/708,597 | Applicant(s) BARNES ET AL. | |
| | Examiner Uyen-Chau N. Le | Art Unit 2876 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 27-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 27-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Prelim. Amdt/Amendment

1. Receipt is acknowledged of the Amendment filed 07/24/2006.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 27 and 33 are rejected under 35 U.S.C. 102(e) as being anticipated by Michot (US 20030054836 A1).

Re claims 27 and 33: Michot discloses a method for facilitating performance tracking comprising: creating a project task, associated with a resource, using a user interface; using a transponder, presented by the resource, to communicate a transponder identifier to a radio frequency identification (RFID) reader via a radio frequency signal; communicating the transponder identifier from the reader to a resource engine;

Art Unit: 2876

associating the transponder identifier with a first time value and a resource identifier corresponding to the resource (i.e., when the employee enters the work site); using the transponder to communicate the transponder identifier to the reader for a second time; communicating the transponder identifier from the reader to the resource engine for a second time; associating the transponder identifier with a second time value and the resource identifier corresponding to the resource (i.e., when the employee exits the work site); computing a task work time representing a time period that the resource was in a work environment, based at least on the first time value and the second time value; and associating the resource identifier and the task work time with the project task in the resource engine (paragraphs [0003-0016]).

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 27-30 and 33-36 are rejected under 35 U.S.C. 102(b) as being anticipated by Dwyer et al (US 5864306 A).

Art Unit: 2876

Re claims 27-30 and 33-36: Dwyer et al discloses a transponder-reader performance tracking system comprising: a user interface operable to allow a user to create a project task, associated with a resource; a transponder, associated with the resource, operable to communicate a transponder identifier to a radio frequency identification (RFID) reader via a radio frequency signal; a resource engine operable to receive the transponder identifier communicated by the reader, the resource engine further operable to associate the transponder identifier with a first time value and a resource identifier corresponding to the resource (i.e., when the vehicle enters the toll), to associate the transponder identifier with a second time value and the resource identifier corresponding to the resource (i.e., when the vehicle exits the toll), to compute a task work time representing a time period that the resource was in a work environment, based at least on the first time value and the second time value, and to associate the resource identifier and the task work time with the project task (fig. 1; col. 3, lines 13-64).

Art Unit: 2876

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 31-32 and 37-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Michot in view of Lowensohn et al (US 7069444 B2). The teachings of Michot have been discussed above.

Art Unit: 2876

Re claims 31-32 and 37-38: Michot has been discussed above, but is silent with respect to a biometric security device authenticates biometric information.

Lowensohn et al teaches he verification can include the user entry of username and password on a computer console, as well as other means of authentication and identification such as biometric data entry, including fingerprint, iris scan, and other biometric technologies, as well as entry of additional alternative credentials and data unique to the individual such as social security number and the like (col. 5, lines 25-50).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the biometric security device of Lowensohn et al into the system as taught by Michot in order to provide Michot with a more security system due to the fact that biometric data cannot be fraud, and therefore an obvious expedient.

Response to Arguments

9. Applicant's arguments with respect to claims 27-38 have been considered but are moot in view of the new ground(s) of rejection.

Newly cited references to Michot and Lowensohn et al have been used in the new ground of rejections to further meet the limitation recited in the newly added claims.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The patents to Khan et al (US 6263316 B1); Anthonyson (US RE37822 E); Roberts et al (US 6859672 B2) are cited as of interest and illustrate a similar structure to METHOD AND SYSTEM FOR TRACKING USER PERFORMANCE.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

Art Unit: 2876

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Uyen-Chau N. Le whose telephone number is 571-272-2397. The examiner can normally be reached on maxi-flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 571-272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2876

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Uyen-Chau N. Le
Primary Examiner
Art Unit 2876

October 2, 2006